



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866**

February 11, 2013

By Electronic Mail

Carol Dinkins, Esq.
Vinson & Elkins
First City Tower
1001 Fannin St., Suite 2500
Houston, TX 77002

William H. Hyatt, Jr., Esq.
K&L Gates LLP
One Newark Center, Tenth Floor
Newark, NJ 07102-5285

Re: Diamond Alkali, Lower Passaic River Study Area - Administrative Settlement
Agreement and Order on Consent for Remedial Investigation and Feasibility Study,
USEPA Region 2 CERCLA Docket No. 02-2007-2009
Newark Bay Study Area – Administrative Order on Consent for Remedial Investigation
and Feasibility Study, USEPA Region 2 CERCLA Docket No. 02-2004-2010

Dear Counsellors:

On September 18, 2012, EPA met with representatives of the Cooperating Parties Group ("CPG"), performing the remedial investigation and feasibility study ("RI/FS") for the Lower Passaic River Study Area ("LPRSA"), and Occidental Chemical Corporation ("Occidental") and Tierra Solutions, Inc. ("Tierra"), performing the RI/FS for the Newark Bay Study Area ("NBSA"). EPA's goal was to improve communications among the parties, cooperation and communication being essential if the CPG and Tierra (acting on behalf of Occidental) are to carry out the work required under the LPRSA Agreement and the NBSA Agreement, respectively.

Following the September 18, 2012 meeting EPA circulated draft meeting minutes for comment; the final minutes are enclosed herein. On the last page, the minutes identify action items, and issues that remained to be resolved. We take this opportunity to review progress made on the action items and identify additional steps to be taken:

Action Items:

1. CPG and Tierra should submit lists of documents that will be generated for NBSA and LPRSA and send to EPA.

Status: To ensure we have complete information, EPA will ask both the CPG and Tierra to provide updated lists of planned deliverables by or before February 28, 2013.

2. Until an agreement is worked out, EPA will share draft documents with the other party and will decide on whether to incorporate their comments.

Status: EPA has been accepting comments from both CPG and Tierra on documents submitted by the other party, and incorporating such comments as we deem appropriate. We will continue this approach.

3. EPA will decide whether to grant access to the EPA SharePoint site to allow both parties to see each other's documents and data.

Status: EPA has given access to the EPA SharePoint site so that the CPG can review documents submitted by Tierra, and Tierra can review documents submitted by the CPG. To the extent that either Tierra and/or the CPG has not been posting documents to SharePoint when submitting them to EPA, they should do so.

4. Tierra and CPG need to come to an agreement how to proceed moving forward and meet objectives of the AOCs.

Status: EPA is encouraged that Tierra and the CPG have worked cooperatively on certain tasks, but we are aware that Tierra and the CPG have not reached full agreement and we urge you to continue those efforts. In the absence of such agreement, EPA has directed that Tierra should be invited to attend modeling meetings with EPA and the CPG, and that Tierra should be able to observe sampling in the NBSA conducted by the CPG. EPA has also asked that Tierra provide an updated schedule for the CSO/SWO study.

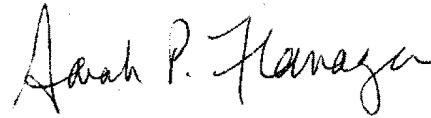
EPA wishes to remind the CPG and Tierra (and Occidental) that under the LPRSA agreement, the CPG is required to closely coordinate with Tierra and to ensure that one model is developed for the LPRSA and NBSA, and under the NBSA agreement, Occidental and Tierra are to coordinate with the CPG in submitting data obtained in the NBSA so that the CPG can develop the model for the LPRSA and NBSA. EPA is aware that Tierra would like to comment on technical documents prepared by the CPG prior to submittal to EPA, and similarly, the CPG would like to comment on documents prepared by Tierra prior to submittal to EPA. That level of coordination must be resolved by the parties themselves. However, to promote the coordination required under the LPRSA and NBSA agreements, EPA asks that Tierra and the CPG advise EPA if there are any other action items that should be added to the list above, with a focus on technical needs and information sharing.

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We look forward to hearing from you.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Sarah P. Flanagan". The signature is fluid and cursive, with the first name "Sarah" being the most prominent.

Sarah P. Flanagan
Assistant Regional Counsel

Enclosure

cc: R. Basso, ERRD
E. Naranjo, ERRD
S. Vaughn, ERRD
A. Yeh, ERRD
P. Hick, ORC
A. Wagner, ORC